

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**APPEAL FROM ORDER NO.84 OF 2015
along with
CIVIL APPLICATION NO.100 OF 2015
in
APPEAL FROM ORDER NO.84 OF 2015**

Suleman Yabkub Mulla .. Appellant/Applicant
Vs.
The Assistant Commissioner,
B.M.C., "K" West ward .. Respondent

Mr.Vivek Walavalkar i/by Mr.Siddharth Ingule for the appellant/
applicant.
Mr.S.R. Sonawane a/w Mr. A.V.Diwate for the respondent -BMC.

CORAM : R.D. DHANUKA, J.
DATE : 4th January 2016

P.C.

. By this appeal from order, the appellant has impugned the order dated 23rd December 2014 passed by the learned trial Judge refusing to grant ad-interim relief in the notice of motion filed by the appellant for injunction against the Mumbai Municipal Corporation.

2. In my view, there is no infirmity with the order passed by the learned trial Judge which was subject matter of this appeal. In my view, public project cannot be stalled by the appellant.

3. The appellant could not establish his case even prima facie before the learned trial Judge and before this Court that the structure alleged to be occupied by the appellant and his family members were different structure for eligibility of separate permanent alternate

accommodation. The structure alleged to have been occupied by the appellant is situated on 44 ft. wide DP road where 900 mm dia sewer pipe line has to be laid by sewerage project department of the respondent. This Court though called upon the learned counsel for the appellant to produce the documents before this Court to show that the appellant in this matter occupies a separate structure which was other than the structure occupied by Mr.Sanjay Chhotu Phansekar, the appellant is not able to produce any such documents. Appeal is devoid of merits and is accordingly dismissed. In view of dismissal of the appeal, civil application does not survive and the same is accordingly dismissed. No order as to costs.

4. At the request of the learned counsel for the appellant, operation of this order is stayed for a period of three weeks from today. It is made clear that the appellant shall not create any third party rights in respect of the suit structure.

R.D. DHANUKA, J.